

Inasmuch as the matter was not resolved through mediation, this dispute was presented to the Commission on Common Ownership Communities for action pursuant to Section 10B-11(e). On January 27, 1999, the Commission conducted a public hearing in this case before a panel consisting of commissioners Russell P. Subin and Barry Wertlieb, and panel chair, Jonathan Bromberg.

FINDINGS OF FACT

Based on the stipulations of the parties and the testimony and evidence of record, the Commission makes the following findings:

1. The Complainant is the owner of Apartment 2B at 15111 Glade Drive, Silver Spring, Maryland 20906.
2. On or about January 23, 1997, the Complainant observed that the clothes dryer in his apartment was over heating. His son examined the dryer and determined that no air was coming out of the air vent and the Complainant concluded that the vent was clogged, thereby causing the over heating.
3. The Complainant's son then contacted the Physical Property dispatcher of Leisure World of Maryland Corporation (a separate entity described by the parties as an umbrella corporation that contracts with the individual mutual associations within Leisure World to provide various services), who sent someone to the unit of the Complainant and informed the Complainant that a different department would have to handle the problem.
4. On or about February 24, 1997, the maintenance department sent two employees to the Complainant's unit who initially spent about 20 minutes working on the dryer. However, it is conceded that there was a large amount of debris and Complainant was billed two (2) additional hours in the amount of \$52.00 to clean-up the additional debris. Respondent conceded that if properly performed, the cleaning of the dryer vents should not require extensive cleanup efforts.
5. Respondent also conceded that the dryer vents are scheduled for cleaning every two years and that, if they are properly cleaned, a large accumulation of debris will not occur.
6. The testimony was also that if a resident required a cleaning of the dryer vent between the two (2) year scheduled cycle, the cost of such cleaning is borne by the resident.
7. It is stipulated by the parties that in September of 1996, Complainant contacted Physical Properties and told them that his cut-off valve was not working properly. Someone was sent to Complainant's unit and replaced the Symmons valve and billed the Complainant in the sum of \$78.69.
8. The parties all agreed that the newsletter of the Respondent called "The Grapevine" specifically instructs the residents to call Ms. Nancy Mach,

Assistant for Property Management, with regard to repairs. The Complainant conceded that he did not contact Ms. Mach and directly contacted the repair division of Leisure World of Maryland Corporation in both instances.

9. The parties conceded that a decision had been made by the Respondent to replace all the Symmons valves in each of the units with a so-called "Watts" valve at no cost to the residents. Further, had Complainant contacted Ms. Mach directly and waited some reasonable time it appears that the Symmons valve would have been replaced with a Watts valve at no cost to Complainant. However, because the Complainant contacted the Leisure World Maryland Corporation maintenance unit directly, the Symmons valve was actually replaced with another Symmons valve and the cost of that replacement was billed to and paid for by the Complainant.
10. The Respondent conceded that when someone calls directly for maintenance, bypassing Ms. Mach, there is no specific warning given to a resident that such calls should go directly to Ms. Mach. In addition, no information was given to the Complainant with regard to the possibility of replacing the Symmons valve with a Watts valve at no cost to Complainant.
11. The panel finds that, while the procedure of Respondent may be confusing to some of the residents, its procedures were disclosed through its normal channels to each resident in the condominium units.

CONCLUSIONS OF LAW

Accordingly, the Commission concludes, based upon a preponderance of the evidence, and after a full and fair consideration of the evidence of record, that:

1. The Complainant is not entitled to reimbursement (or a waiver of charges) for the Symmons valve or for the initial basic unclogging of the dryer vent because he admittedly did not follow the written procedures of Association as detailed in the community newsletter. The Commission finds that Respondent notified the residents of the repair procedures in a reasonable manner by including such notices in the community newsletter.
2. The services provided that were charged to the Complainant for cleanup of debris after unclogging the vent were unreasonable. To the extent that the inadequate initial work on the dryer vent was performed by Leisure World of Maryland Corporation, the panel finds that Leisure World of Maryland


Corporation acted in its capacity as agent for Respondent and that Respondent is responsible to Complainant for the additional charge of \$52.00. As such, the panel finds Complainant should only be responsible to pay the \$26.00 charge for the service related to unclogging the vent and is not responsible for the \$52.00 charge for cleaning up the debris.

ORDER

In view of the foregoing, and based on the evidence of record, the Commission orders that:

1. The Complainant is not responsible for the \$52.00 charge for clean-up of the debris resulting from the unclogging services provided for the dryer vent in his unit and, if already paid by Complainant, shall be refunded to him as soon as possible.
2. The Respondent need not refund to Complainant the cost of replacing the Symmons valve.
3. The foregoing was concurred in by panel members Subin, Wertlieb and Bromberg.

Any party aggrieved by the action of the Commission may file an administrative appeal to the Circuit Court of Montgomery County, Maryland, within thirty days (30) from the date of this Order, pursuant to the Maryland Rules of Procedure governing administrative appeals.


Jonathan Bromberg / by SBW
Panel Chairperson
Commission on Common
Ownership Properties